

LARRIANTE J. SUMBRY,
Petitioner,
vs.
ED BUSS, SUPERINTENDENT,
INDIANA STATE PRISON,
Respondent.

This matter is before the Court upon Larriante J. Sumbry’s application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Petitioner, an Indiana state prisoner currently incarcerated at the Indiana State Prison (“ISP”) in Michigan City, Indiana, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is challenging a conviction that arose in the Superior Court of Lake County, Indiana.

Pursuant to 28 U.S.C. § 2241(a), “[w]rits of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” “The writ of habeas corpus acts upon the person holding the petitioner in what is alleged to be unlawful custody.” *Rheuark v. Wade*, 608 F.2d

304, 305 (8th Cir. 1979). Therefore, jurisdiction of a petition for a writ of habeas corpus lies “either in the district of physical confinement or in the district in which a custodian against whom the petition is directed is present.” Id.

In the case at hand, neither petitioner nor respondent is located within the geographic boundaries of the Eastern District of Missouri. Therefore, this Court does not have jurisdiction to entertain the instant petition. The United States District Court for the Northern District of Indiana, Hammond Division, does have jurisdiction to entertain this petition.

Under 28 U.S.C. § 1631, a court that finds it lacks jurisdiction to entertain a civil action may, if it is in the interest of justice, transfer such action to any other court in which the action could have been brought at the time it was filed. Because petitioner is proceeding pro se and seeks habeas corpus relief, the Court believes it would be in the interest of justice to transfer this case to the United States District Court for the Northern District of Indiana, Hammond Division, pursuant to § 1631.

Therefore,

IT IS HEREBY ORDERED that the Clerk shall **TRANSFER** the instant 28 U.S.C. § 2254 application for a writ of habeas corpus to the United States District Court for the Northern District of Indiana, Hammond Division, pursuant to 28 U.S.C. § 1631.

An separate order of transfer shall accompany this memorandum and order.

Dated this 6th day of March, 2007.

A handwritten signature in cursive script, reading "Henry Edward Autrey", with a long horizontal flourish extending to the right.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE